

76-680

Supreme Court, U. S.

FILED

NOV 15 1976

MICHAEL RODAK, JR., CLERK

IN THE
Supreme Court Of The United States
OCTOBER TERM, 1976

No. _____

GEORGE O. JERNIGAN, JR., INDIVIDUALLY
AND AS SECRETARY OF STATE OF THE
STATE OF ARKANSAS Appellant

VS.

JIM LENDALL Appellee

ON APPEAL FROM THE UNITED STATES DISTRICT
COURT FOR THE EASTERN DISTRICT OF ARKANSAS

JURISDICTIONAL STATEMENT

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GEORGE O. JERNIGAN, JR., INDIVIDUALLY
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STATE OF ARKANSAS *Appellant*

VS.

JIM LENDALL *Appellee*

ON APPEAL FROM THE UNITED STATES DISTRICT
COURT FOR THE EASTERN DISTRICT OF ARKANSAS

JURISDICTIONAL STATEMENT

Appellant appeals from the judgment of the United States District Court for the Eastern District of Arkansas, entered on August 20, 1976, declaring certain statutes of the State of Arkansas, *Ark. Stat. Ann. §§3-105(c) and 3-113 (a) (Repl. 1976)*, unconstitutional under the United States Constitution, and submits this Statement to show that the Supreme Court of the United States has jurisdiction of the appeal and that a substantial question is presented.

OPINION BELOW

The opinion of the District Court for the Eastern District of Arkansas, Western Division, is not yet reported. Copies of the Memorandum Opinion and Order appear in the Appendix as A and B.

JURISDICTION

This action was brought pursuant to 28 U.S.C. §1343 and 42 U.S.C. §§1981 and 1983 challenging the constitutional validity of Ark. Stat. Ann. §§3-105(c) and 3-113(a) (Repl. 1976). The judgment of the District Court was entered on August 20, 1976, and notice of appeal was filed in that Court on September 17, 1976. The jurisdiction of the Supreme Court to review this decision by direct appeal is conferred by 28 U.S.C. §1253. The following decisions sustain the jurisdiction of the Supreme Court to review the judgment on direct appeal in this case: *Moore v. Ogilvie*, 394 U.S. 814, 89 S. Ct. 1493, 23 L. Ed. 2d 1 (1969); *Salera v. Tucker*, 399 F. Supp. 1258 (E.D. Pa. 1975) *aff'd mem.*, 424 U.S. 959, 96 S. Ct. 1451, 47 L. Ed. 2d 727 (1976); *Bullock v. Carter*, 405 U.S. 134, 92 S. Ct. 849, 31 L. Ed. 2d 92 (1972).

QUESTIONS PRESENTED

1. Did the three-judge District Court correctly decide that Ark. Stat. Ann. §§3-105 (c) and 3-113(a) (Repl. 1976), insofar as they require an independent candidate for public office to file nominating petitions containing a specified number of signatures on or before the first Tuesday in April next preceding the general election at which the candidate wishes to have his name appear on the ballot, are unconstitutional as depriving the appellee of reasonable access to a place on the ballot?

2. Did the appellee present to the District Court sufficient evidence upon which it could find that the filing deadline imposed by Arkansas law unconstitutionally impaired the appellee's ability to qualify as an independent candidate?

STATUTES INVOLVED

Ark. Stat. Ann. §3-105(c) (Repl. 1976):

"(c) Any person desiring to have his name placed upon the ballot as an independent candidate without political party affiliation for any State, county, township or district office, in any general election in this State shall file as an independent candidate in the manner provided herein, no later than the date fixed by law as the deadline for filing political practice pledges, and party pledges, if any be required by the rules of the party, to qualify as a candidate of a political party in a primary election, and shall furnish at the time he files as an independent candidate, petitions signed by not less than ten percent (10%) of the qualified electors in the county, township or district in which such person is seeking office, but in no event shall more than 2,000 signatures be required for a district office, or if such person is a candidate for State office or for United States Senator, in which a State-wide race is required, such person shall file petitions signed by not less than ten percent (10%) of the qualified electors of the State, or 10,000 signatures of qualified electors, whichever is the lesser, each of whom shall be a registered voter, and such petitions shall be directed to the official with whom such person is required by law to file nomination certificates to qualify as a candidate, requesting that the name of

such person be placed on the ballot for election to the office mentioned in the petition. Such petitions shall be circulated not earlier than sixty (60) calendar days prior to the deadline for filing such petitions to qualify as an independent candidate. In determining the number of qualified electors in any county, township, district or in the State, the total number of votes cast therein for all candidates in the preceding general election for the office of Governor shall be conclusive of the number of qualified electors therein for the purposes hereof. The sufficiency of any petition filed under the provisions hereof may be challenge [challenged] in the same manner as provided by law for the challenging of Initiative and Referendum petitions. Independent candidates for municipal office may qualify by petition of not less than ten (10) nor more than fifty (50) electors of the ward or city in which the election is to be held. Except in case of a vacancy occurring in any nomination by withdrawal, death, or otherwise, a person who has been defeated in a party primary shall not be permitted to file as an independent candidate in the general election for the office for which he was defeated in the party primary."

Ark. Stat. Ann. §3-113(a):

"(a) Party pledges, if any, and political practice pledges, for primary elections shall be filed, and ballot fees shall be paid during regular established business hours between 12 o'clock noon and on the second (2nd) Tuesday in March and 12 o'clock noon on the first (1st) Tuesday in April before the preferential primary election. Party pledges, if any, and political practice pledges shall be filed, and ballot fees for special primary elections shall be paid, on or before the deadline

established by proclamation of the Governor. The filing period shall consist of three (3) weeks prior to the filing deadline."

The complete texts of *Ark. Stat. Ann.* §§3-105 and 3-113 (Repl. 1976) which are found at pages 56, 57 and 58; and 68, 69 and 70 of Volume 2, Part 1, 1976 Replacement to *Arkansas Statutes, 1947 Annotated, Official Edition*, are set forth as Appendix C hereto.

STATEMENT OF THE CASE

In 1974 the appellee, Mr. Jim Lendall, filed a suit in equity challenging the qualification requirements for independent candidates contained in the Election Code of the State of Arkansas. More particularly, he challenged the provisions of section 3-105, which then required an independent candidate to file his pledge with the Secretary of State by the first Tuesday in April preceding the general election in November and to accompany his pledge with nominating petitions signed by not less than 15 percent of the qualified electors of the district. A three-judge district court was constituted and a per curiam opinion entered holding section 3-105(c) (as then written) to be "unconstitutional as applied to independent candidates for State, district, county and township offices, including the plaintiff." Declaratory relief was granted accordingly, but injunctive relief was denied because it was too late to be of any benefit to the plaintiff. It was there stated: "Of course, if the Legislature does not act, and if the Secretary of State undertakes to enforce the statute as it is now written, it may be necessary to enjoin him from so doing, assuming that our decision here is a correct one." See *Lendall v. Bryant*, 387 F. Supp. 397, 403 and 404 (1974).

By Act No. 700 of 1975, the Arkansas Legislature amended the provisions of section 3-105(c) by reducing the percentage of petitioners required to "not less than ten percent of the qualified electors in the county, township or district in which such person is seeking office, but in no event shall more than 2,000 signatures be required for a district office." In Statewide races the percentage was also reduced to ten percent, "or 10,000 signatures of qualified electors, whichever is the lesser." Except for the changes relating to the number of petitioners, section 3-105(c) was left unchanged.

On June 15, 1976, Mr. Jim Lendall filed his complaint in the District Court in which he challenges the filing deadline for independent candidates which, by reference, is fixed as "12 o'clock noon on the first Tuesday in April before the preferential primary election." See Section 3-113 (a). That date is also the deadline for persons seeking to qualify as candidates of political parties in primary elections. Plaintiff here is concentrating his attack upon the filing deadline and is not presently attacking the new petition requirements referred to above.

The appellant and the appellee stipulated before the District Court that appellee is a resident and qualified elector of the State of Arkansas residing in State Senatorial District No. 3 in Pulaski County, Arkansas and that he meets the eligibility requirements of Article 5, §4 of the Arkansas Constitution for election to the Arkansas Senate. Further, it was stipulated that subsequent to the 1976 Arkansas party primaries, the appellee announced his intention to seek nomination as an independent candidate for State Senate District No. 3. The appellee did not attempt to file petitions for nomination as an independent

candidate but if he had done so at any time subsequent to the time established in the statute, the appellant, George O. Jernigan, Jr., the duly appointed and acting Secretary of State of the State of Arkansas, would have refused to allow the filing of the petitions.

No hearing was held and no evidence was introduced other than the stipulation and an affidavit of the appellant.

THE QUESTIONS PRESENTED ARE SUBSTANTIAL

This case presents the Court with the opportunity for and necessity of resolving an implicit conflict between its decision in *Jenness v. Fortson*, 403 U.S. 431, 91 S. Ct. 1970, 29 L. Ed. 2d 554 (1971) and its recent affirmance without opinion of the case of *Salera v. Tucker*, *supra*. Both of those cases dealt with state statutory schemes which imposed filing deadlines on independent candidates in advance of the party primaries. This Court approved in *Jenness* an independent candidate filing deadline of the second Wednesday in June which was the same as the party candidate deadline and disapproved in *Salera* an April filing deadline which fell between the party candidate deadline and the party primary.

The District Court in this case found the challenged statute to be unconstitutional "generally for the same reasons which were cited as the basis for the Court's decision in *Lendall v. Bryant*, [387 F. Supp. 397 (1975)]." The only reason articulated by the District Court in that case for invalidating the filing deadline was the Court's statement that "serious independent candidacies generally arise from substantial public dissatisfaction with party nominees or with the positions taken by the organized parties with respect to important issues. And that

dissatisfaction does not ordinarily manifest itself until party nominees and party positions are known. It is simply too much to require a would-be independent candidate to obtain the signatures of 15% of the qualified electors of a State or political subdivision thereof weeks in advance of the primary elections and months ahead of the general election. See in this connection the remarks of Mr. Justice Brennan in his dissenting opinion in *Storer v. Brown*, *supra*, 415 U.S. at 755, 758, 94 S. Ct. 1274." 387 F. Supp. at 402. That statement is in direct conflict with the opinion of this Court that "Georgia does not fix an unreasonably early filing deadline for candidates not endorsed by established parties." *Jenness*, *supra*, 403 U.S. at 438. In spite of the *Jenness* decision, both *Salera v. Tucker*, *supra*, and the District Court in this case assume that independent candidates have a constitutional right to wait until party candidates are known before filing for office. If it is constitutionally permissible for California to force prospective independent candidates to disaffiliate from any political party 12 months prior to the party primaries, how can it be unreasonable for Arkansas to demand that independent candidates make their decisions less than two months prior to the party primaries? *Storer v. Brown*, 415 U.S. 724, 94 S. Ct. 1274, 39 L. Ed. 2d 714 (1974).

This Court should take jurisdiction of this appeal in order to determine whether, as the District Court has implicitly found, a filing deadline for independent candidates which is the same as the filing deadline for party candidates is per se unconstitutional or whether, as this Court found in the *Jenness* case, *supra*, that a court may constitutionally establish a filing deadline for independent candidates which is the same as the filing deadline for party candidates.

A decision on this question is especially crucial since one of the compelling state interests urged upon the District Court in an attempt to justify this filing deadline was the State's interest in preserving a viable party system. The above-quoted passage from *Lendall v. Bryant*, *supra*, ignores the State's compelling interest in promoting and strengthening the party system. The State can, by keeping down independent candidacies which tend to fragment political parties, promote the strengthening of parties.

"It seems undeniable that the political stability that a two party system fosters, by encouraging 'a politics of coalition and accommodation rather than . . . ideological and charismatic fragmentation,' is a compelling state interest." *Developments In The Law — Elections*, 88 Harv. L. Rev. 1111, 1138 (1975) (footnote omitted).

The State's compelling interest in protecting a viable party system and guarding it from the inroads of ad hoc independent candidacies may be promoted by requiring independent candidates to file at the same time as party candidates. By making it easier for one to become a party candidate than an independent candidate, the State encourages the process of accommodation and compromise so vital to a strong two party system.

Arkansas imposes no undue restrictions on the formation of new political parties. A new party may be formed by filing with the Secretary of State petitions bearing the signatures of qualified electors equal to seven percent (7%) of the total vote cast for Governor or Presidential electors at the last general election. *Ark. Stat. Ann.* §3-101 (a) (Repl. 1976). Any qualified elector may sign such petitions. No restrictions are imposed because of past affiliation with any other political party.

This compelling state interest requires that the filing deadline stay at the first Tuesday in April unless the Legislature should choose a later time for the filing of all candidates. Such a legitimate state interest is implicitly recognized in *Jenness, supra*, which approved a filing deadline for all candidates, party as well as independent, on the same day.

The other substantial question presented by this appeal is whether the District Court had sufficient evidence before it on which it could find that the filing deadline imposed by Arkansas law unconstitutionally impaired the appellee's ability to qualify as an independent candidate.

All the record in this case contains in the way of evidence is the stipulation of the parties and the affidavit of the appellant. There was no evidence before the District Court that the filing deadline established by Arkansas law had in any way adversely affected the plaintiff's ability to qualify as an independent candidate. The District Court can not be allowed to presume on the basis of no evidence whatsoever, that a validly enacted statute of the Arkansas General Assembly unconstitutionally impairs the appellee's ability to run for political office.

This Court has many times recognized a state's ability to reasonably restrict access to the ballot. There must therefore be evidence presented to the District Court which will show that the restrictions imposed by state law are unreasonable before a District Court can declare them unconstitutional. The District Court in this case did not have such evidence before it because the appellee made no attempt to present such evidence. *See, Salera v. Tucker, supra*, 399 F. Supp. at 1266 and 1267. It denies the State of

Arkansas due process of law for the District Court to decide that a State statute is unconstitutional when the District Court has been presented with no evidence upon which it can make such a determination.

C O N C L U S I O N

It is submitted that the District Court erred in holding that the filing deadline imposed by *Ark. Stat. Ann. §3-105 (c) (Repl. 1976)* is unconstitutional and that the Court erred in making that determination when it did not have sufficient evidence presented to it to enable it to reach such a conclusion. Appellant believes that the questions presented by this appeal are substantial and that they are of public importance.

Respectfully submitted,

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Appendix "A"

IN THE UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF ARKANSAS
WESTERN DIVISION

JIM LENDALL Plaintiff

vs. No. LR-76-C-184

GEORGE O. JERNIGAN, JR.,
Individually and as Secretary
of State of the State of Arkansas Defendant

ORDER

Pursuant to the Memorandum Opinion filed this day, it is Ordered that the defendant permit the plaintiff to file proper petitions as an independent candidate for State Senate in District 3 if said petitions are tendered on or before 12 o'clock noon, August 31, 1976. If petitioner's filings are otherwise adequate and if he complies with all other pertinent state laws, defendant is further ordered to permit plaintiff to qualify as an independent candidate and have his name placed on the November 2 General Election Ballot as such.

Dated this 20th day of August, 1976.

/s/ J. Smith Henley
United States Circuit Judge

/s/ Garnett Thomas Eisele
United States District Judge

/s/ Terry L. Shell
United States District Judge

FILED: U.S. District Court, Eastern District Arkansas,
August 20, 1975, W. H. McClellan, Clerk.

Appendix "B"

IN THE UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF ARKANSAS
WESTERN DIVISION

JIM LENDALL Plaintiff

vs. No. LR-76-C-184

GEORGE O. JERNIGAN, JR.,
Individually and as Secretary
of State of the State of Arkansas Defendant
PER CURIAM:

MEMORANDUM OPINION

In 1974 the plaintiff here, Mr. Jim Lendall, filed a suit in equity challenging the qualification requirements for independent candidates contained in the Election Code of the State of Arkansas. More particularly, he challenged the provisions of section 3-105, which then required that an independent candidate must file his pledge with the Secretary of State by the first Tuesday in April preceding the general election in November and that he accompany his pledge with nominating petitions signed by not less than 15 percent of the qualified electors of the district. A three-judge district court was constituted and a per curiam opinion entered holding that section 3-105(c) (as then written) to be "unconstitutional as applied to independent candidates for State, district, county and township offices, including the plaintiff." Declaratory relief was granted accordingly, but injunctive relief was denied because it was too late to be of any benefit to the plaintiff. It was there stated, "Of course, if the Legislature does not act, and if the Secretary of State undertakes to enforce the statute as it is now written, it may be necessary to enjoin him from so doing, assuming that our decision here

is a correct one." See *Lendall v. Bryant*, 387 F. Supp. 397 (1974).

By Act No. 700 of 1975, the Arkansas Legislature amended the provisions of section 3-105(c) by reducing the percentage of petitioners required to "not less than ten percent of the qualified electors in the county, township or district in which such person is seeking office, but in no event shall more than 2,000 signatures be required for a district office." In statewide races the percentage was also reduced to ten percent, "or 10,000 signatures of qualified electors, whichever is the lesser." Except for the changes relating to the number of petitioners, section 3-105(c) was left unchanged.

On June 15, 1976, Mr. Jim Lendall filed the complaint in this action in which he challenges the filing deadline for independent candidates which, by reference, is fixed as "12 o'clock noon on the first Tuesday in April before the preferential primary election." See Section 3-113(a). That date is also the deadline in which persons might seek to qualify as candidates of political parties in primary elections. Plaintiff here is concentrating his attack upon the filing deadline and is not presently attacking the new petition requirements referred to above.

The facts were stipulated by the parties, and briefs were filed. Oral argument was heard this day before the full three-judge court.

After considering the evidence, the law and the arguments of the attorneys, the Court concludes that the filing deadline for independent candidates for district offices, found in section 3-113, Ark. Stats., is unconstitutional, generally for the same reasons which were cited as the basis for the Court's decision in *Lendall v. Bryant*, *supra*.

Mr. Jim Lendall has been diligent in attempting to qualify as an independent candidate for State Senate in District 3 and in pursuing his legal remedies in an effort to challenge the law with respect to the filing deadline for independent candidates for such positions. Through no fault of his own, the Court has only been able to reach the issues this date.

The Court is of the view, under all the circumstances, that Mr. Lendall is entitled to injunctive relief requiring the defendant to accept the petition filings of the plaintiff, Mr. Lendall, which are tendered by the plaintiff on or before 12 o'clock noon on August 31, 1976. However, our decision in this respect should not be deemed as requiring the General Assembly of the State of Arkansas to establish a deadline so near the general election or, indeed, to establish any particular deadline. It is clear that the Legislature has certain discretion with respect to such matters, and that that discretion should not be interfered with so long as it is exercised within constitutionally acceptable limits.

It is the view of the Court that the General Assembly may wish, in the light of this Court's and other courts' decisions, to reexamine the filing deadlines not only for independent candidates but perhaps also for those who wish to be candidates of political parties. In any event, the Court is here holding only that the presently established filing deadline for independent candidates for district office is unconstitutional. However, we do not wish to indicate by our opinion that we believe the petition requirements enacted by the General Assembly in 1975 would withstand a constitutional attack. See *Lendall v. Bryant*, *supra*.

Appendix "C"

3-105. Method of selection of nominees. — The name of no person shall be printed on the ballot in any general or special election in this State as a candidate for election to any office unless such person shall have been certified as a nominee selected as follows:

(a) Nominees of any political party for United States Senate, United States House of Representatives, State, District or County office to be voted upon at a general election shall be certified as having received a majority of the votes cast for said office, or as an unopposed candidate, at a primary election held by such political party in the manner provided by law.

(b) Nominees of any political party for township or municipal office shall be declared by certification of a primary election as provided in subsection (a) of this Section.

(c) Any person desiring to have his name placed upon the ballot as an independent candidate without political party affiliation for any State, county, township or district office, in any general election in this State shall file as an independent candidate in the manner provided herein, no later than the date fixed by law as the deadline for filing political practice pledges, and party pledges, if any be required by the rules of the party, to qualify as a candidate of a political party in a primary election, and shall furnish at the time he files as an independent candidate, petitions signed by not less than ten percent (10%) of the qualified electors in the county, township or district in which such person is seeking office, but in no event shall more than 2,000 signatures be required for a district office,

or if such person is a candidate for State office or for United States Senator, in which a Statewide race is required, such person shall file petitions signed by not less than ten percent (10%) of the qualified electors of the State, or 10,000 signatures of qualified electors, whichever is the lesser, each of whom shall be a registered voter, and such petitions shall be directed to the official with whom such person is required by law to file nomination certificates to qualify as a candidate, requesting that the name of such person be placed on the ballot for election to the office mentioned in the petition. Such petitions shall be circulated not earlier than sixty (60) calendar days prior to the deadline for filing such petitions to qualify as an independent candidate. In determining the number of qualified electors in any county, township, district or in the State, the total number of votes cast therein for all candidates in the preceding general election for the office of Governor shall be conclusive of the number of qualified electors therein for the purposes hereof. The sufficiency of any petition filed under the provisions hereof may be challenge [challenged] in the same manner as provided by law for the challenging of Initiative and Referendum petitions. Independent candidates for municipal office may qualify by petition of not less than ten (10) nor more than fifty (50) electors of the ward or city in which the election is to be held. Except in case of a vacancy occurring in any nomination by withdrawal, death, or otherwise, a person who has been defeated in a party primary shall not be permitted to file as an independent candidate in the general election for the office for which he was defeated in the party primary.

(d) Nominees of a political party to fill a vacancy in nomination, as defined herein, shall be declared by:

(1) Certificate of the chairman and secretary of any convention of delegates; or

(2) By a special primary election called, held and conducted in accordance with the rules of the party; or

(3) By petition of not less than fifty (50) nor more than one thousand (1,000) electors from the State, or district or county in which the vacancy in nomination exists.

(e) Nominees for election at a special election called for the purpose of filling a vacancy in office for member of the House of Representatives of the Congress of the United States, for Lieutenant Governor, or as a member of the Senate or House of Representatives of the General Assembly shall be chosen as follows:

(1) Whenever a vacancy shall exist in either of the aforementioned offices, the Governor shall certify in writing to the State Committee of the respective political parties the fact of such vacancy and shall request the respective State Committee to make a determination and notify him in writing within ten (10) days with respect to whether the political party desires to hold a special primary election to choose a nominee of such party as a candidate for election to the office in which the vacancy exists. If the State Committee of any political party shall notify the Governor, within the time provided above, of their request to hold a special primary election, it shall be mandatory that any political party desiring to choose a nominee for election to the office in which the vacancy exists to choose such nominee at a special primary election. In issuing the proclamation calling for a special election to fill the vacancy in office, the Governor shall also specify the date on which the special primary elections shall be held, and the date on which a run-off primary election shall be held in the

event a candidate does not receive a majority vote. The proclamation of the Governor shall also establish the deadline for filing as a candidate for nomination, which deadline shall allow at least ten (10) days in which candidates may file for nomination. The date of the special primary election shall be at least thirty (30) days, but no more than sixty (60) days, subsequent to the date fixed as a deadline for qualifying as a candidate for nomination, and shall be at least ten (10) days prior to the date fixed in the proclamation for holding the special election to fill the vacancy in office. Certificates of nomination of persons nominated at a special primary election shall be filed, and the filing fees therefor paid, to the appropriate official at least seven (7) days prior to the date for holding the special election to fill the vacancy in office.

(2) In the event nominee [nominees] of political parties as candidates for election to fill a vacancy in office are to be chosen by special primary election, any person desiring to be a candidate for such office as an independent candidate without political party affiliation, may file nomination petitions signed by not less than fifteen percent (15%) of the qualified electors of the district or of the State, as the case may be, as determined by the total number of votes cast in the last preceding general election for all candidates for the office of Governor. Such petitions shall be filed on or before the deadline fixed in the proclamation of the Governor to file and qualify as a candidate for nomination at the special primary elections to be held by the respective political parties to choose party nominees as candidates for election to fill the vacancy in office.

(3) If the State Committee of neither of the political parties shall notify the Governor, within the time provided hereinabove, of the desire to hold a special primary election

to choose a nominee of such political party as a candidate for election to fill the vacancy in office, the Governor shall, in issuing his proclamation calling for the special election, fix a deadline for filing as a nominee for election at such special election. In such event, nominations may be made either upon certification of the chairman or secretary of a convention of delegates of a political party called and held in accordance with the rules of the party, or upon petition of electors of the district or the state, as the case may be, in which the vacancy exists, signed by not less than one hundred (100) qualified electors of the district in which a vacancy in the Senate or House of Representatives of the General Assembly shall exist or by not less than five hundred (500) qualified electors of the district in which the vacancy exists with respect to a member of the House of Representatives of the Congress of the United States, or of the State of Arkansas with respect to the office of Lieutenant Governor. [Acts 1969, No. 465, Art. 1, §5, p. 1195; 1971, No. 261, §3, p. 599; 1972 (Ex. Sess.), No. 42, §1, p. 2368; 1975, No. 1700, §1, p. —.]

3-113. Schedule of dates applicable to primary elections. — (a) Party pledges, if any, and political practice pledges for primary elections shall be filed, and ballot fees shall be paid during regular established business hours between 12 o'clock noon and on the second (2nd) Tuesday in March and 12 o'clock noon on the first (1st) Tuesday in April before the preferential primary election. Party pledges, if any, and political practice pledges shall be filed, and ballot fees for special primary elections shall be paid, on or before the deadline established by proclamation of the Governor. The filing period shall consist of the three (3) weeks prior to the filing deadline.

(b) No later than forty (40) days before the preferential primary election the Chairman and Secretary of State Committee of the political party shall certify to the various county committees the names of all candidates who have qualified with said State Committee for election by filing the party pledge and paying the ballot fee within the time required by law.

(c) The general primary election shall be held on the second Tuesday in June preceding the general election.

(d) The preferential primary election shall be held on the Tuesday two (2) weeks prior to the general primary election.

(e) Judges and Clerks of primary elections shall be selected by the County Committee at an open public meeting held not later than thirty-five (35) days before the preferential primary election, and notice of said meeting shall be in the manner as provided in Section 12 [§3-112] of this Article.

(f) The order in which the names of the respective candidates shall appear on the primary election ballot shall be determined by lot at the meeting of the County Committee held for the selection of election judges and clerks at the time provided in subsection (e) above.

(g) The County Committee shall convene, at the time specified in the notice to the members given by the Secretary of the County Committee, on the Friday following each primary held on the preceding Tuesday for the purpose of canvassing the returns and certifying the election results. If no time be specified for the meeting of the County Committee, such meeting shall be at 2:00 p.m.

(h) The County Convention of a political party holding a primary election shall be held on the first Monday following the date of the general primary.

(i) Immediately following the County Convention, the newly elected County Committee shall certify to the County Board of Election Commissioners and the County Clerk a list of all duly nominated candidates for county, township and municipal offices. At the same time, the County Committee shall certify to the Secretary of the State Committee the results of the contests for all United States, State and District offices. Immediately after ascertaining the results for all United States, State and District offices, the State Committee shall certify to the Secretary of State a list of all duly nominated candidates for said offices.

(j) (1.) The Secretary of State shall, at least sixty (60) days prior to the date of the General Election, notify by registered mail the Chairman and Secretary of the State Committee of the respective political parties that a certificate of nomination is due for all duly nominated candidates for United States, State and District offices in order that the candidate's name be placed on the ballot of the General Election. The State Committee shall issue said certificates of nomination to all duly nominated candidates for United States, State and District offices, who shall file said certificates with the Secretary of State at least forty-five (45) days but not more than fifty-five (55) days prior to the General Election. However, if the Chairman and Secretary of the State Committee of the respective political parties are not properly notified as directed by this Section, the failure of a candidate to file a certificate of nomination

shall not prevent that candidate's name from being placed on the ballot of the General Election.

(2.) Each County Clerk shall, at least sixty (60) days prior to the date of the General Election, notify by registered mail the Chairman and Secretary of the County Committee of the respective political parties that a certified list of all duly nominated candidates for county, township and municipal offices is due and shall be filed with the County Board of Election Commissioners and the County Clerk in order that the candidates' names be placed on the ballot for the General Election. The County Committee shall issue said certified list on behalf of those duly nominated candidates and submit the certified list to the County Board of Election Commissioners and the County Clerk at least forty-five (45) days but not more than fifty-five (55) days prior to the General Election. However, if the Chairman and Secretary of the County Committee of the respective political parties are not properly notified as directed by this Section, the failure of a certified list to be filed shall not prevent any candidate's name from being placed on the ballot of the General Election.

(k) The boundaries of voting precincts in primary elections, and the voting places therein, shall be established at least thirty (30) days preceding any primary election, and any alternation or change therein made subsequent to said date shall be void.

(l) Any group of voters desiring to file a petition with the Secretary of State signed by qualified electors equal in number to at least seven percent [7%] of the total vote cast for the office of Governor or nominees for Presidential Electors, at the last preceding election, so as to establish a

Political Party shall file said petition at least thirty [30] days prior to the date established for the filing of party pledges, if any, and political practice pledges for primary elections. Said petition shall be filed at least five [5] days prior to any deadline established by proclamation of the Governor for the filing of party pledges, if any, and political practice pledges and ballot fees for special primary elections. [Acts 1969, No. 465, Art. 1, §13, p. 1195; 1971, No. 261, §23, p. 599; 1971, No. 347, §§5-7, p. 846; 1971, No. 829, §§1-3, p. 1475; 1972 (Ex. Sess.), No. 37, §§1, 2, p. 2358; 1975, No. 601, §§1, 2, p. —.]